

SUMMARY OF INCIDENT:

This investigation shows that on 28 February 2015, while in the vicinity of XXXX S. Racine, the complainant, Subject 1, got into a physical altercation with an unknown male and then shortly thereafter he got into an altercation with his girlfriend, Civilian 1. Officers A and B responded to a call of a domestic disturbance, but both incidents were resolved prior to the officers' arrival to the scene. The officers were speaking with Civilian 1 when Subject 1 returned to the area and began yelling at Civilian 1. During this time, Officer A and Subject 1 got into physical and verbal altercations, which led to Subject 1's arrest.

ALLEGATIONS:

On 02 March 2015, at approximately 2103 hours, the complainant, Subject 1, registered a complaint with IPRA Investigator A. It is alleged that on 28 February 2015, at approximately 2301 hours, while in the vicinity of XXXX S. Racine, **Officer A, #XXXX:**

- 1) Threatened to physically harm Subject 1, in violation of Rule #9;
- 2) Punched Subject 1 on the face several times without justification, in violation of Rule #9;
- 3) Threw Subject 1 to the ground without justification, in violation of Rule #9;
- 4) Kicked Subject 1, in violation of Rule #8;
- 5) Pulled Subject 1's left arm upward in a forceful manner, in violation of Rule #9; and
- 6) Handcuffed Subject 1 too tightly and refused to loosen the handcuffs upon request; in violation of Rule #9.

APPLICABLE RULES AND LAW

Rule 2: Prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

INVESTIGATION:

In a statement to IPRA on 03 March 2015, the **complainant, Subject 1**, reported that on 28 February 2015, he got into a physical altercation with another male (NFI), outside of a club on XXXX S. Racine. Subject 1 reported that he did not know the man's name that he fought with. The man never struck him in the face, just on the chest. The altercation ended by the time the police arrived on the scene, and the officers told both men to leave. At this time, Subject 1 attempted to get his girlfriend, Civilian 1, to leave the club so that they could go home together. Subject 1 indicated that he and Civilian 1 got into verbal altercation with one of the officers, now believed to be ¹ Officer A.

According to Subject 1, Officer A was saying words to the effect of: "You need to go before you get your ass whipped." Subject 1 was walking away from the officers when he stated to Officer A, "You're not going to do anything to me." At this time, Officer A approached Subject 1 from behind and punched him on the face. Subject 1 was thrown to the ground, punched four to five more times on the face, and then kicked while he was on the ground. Subject 1 was unable to identify which officer kicked him. Subject 1 further reported that one of the officers handcuffed him too tightly. Subject 1 explained that as he was being handcuffed, one of the unidentifiable officers pulled his arm up in a forceful manner which caused a strain to his shoulder. Subject 1 was placed into custody and transported to the police station. While at the police station, Subject 1 filed a complaint with the sergeant (NFI) and asked for medical treatment. Subject 1 sustained swelling to his face and a strained shoulder. He was given medical attention at XXXXX Hospital. Subject 1 indicated that when he was handcuffed too tightly, the handcuffs ²broke his skin and left a mark. (Att. #08, 21)

During a telephone conversation with the **witness, Civilian 1, Subject 1's girlfriend**, she reported that the police were called because of a fight outside of a bar at XXXX S. Racine. According to Civilian 1, she and Subject 1 got into a verbal altercation, but it never got physical. After the verbal altercation, Subject 1 walked to the bus stop and she went back into the bar. Civilian 1 said she never observed the physical interaction between Subject 1 and the responding officers. Civilian 1 stated that the next time she saw Subject 1, he was in the backseat of the squad car. Civilian 1 observed swelling to Subject 1's face, but she did not have knowledge of how he sustained the injury. (Att. #27)

The **arrest report of Subject 1** indicated he was arrested for Aggravated Assault by Officers A and B. The narrative of the report indicated that the arresting officers

Subject 1 did not know the name of the accused officer, but he stated that the "black" officer punched him on the face. Att. #21, pg. 17, lines 12 -13. During the investigation, the R/1 learned that Officers A and B are both black. The accused was identified based solely on the Tactical Response Report. (TRR)

² Att. #21, pg. 21, lines 14 — 19.

responded to a call of a domestic dispute between Subject 1 and his girlfriend, Civilian 1. During the investigation, Subject 1 stated words to the effect of: "I'll beat your pussy ass. If I catch you without that gun, I'll beat you pussy ass." The arresting officers approached Subject 1 to conduct an arrest. At this time, Subject 1 closed his fist in an aggressive manner and charged towards Officer A, placing Officer A in fear of receiving a battery. Officer A then used hand strikes and emergency take down tactics to affect the arrest. According to the arrest report, Subject 1 was highly intoxicated and sustained swelling as well as lacerations to his face during the altercation.

The **Arrest Processing Report** indicated that Subject 1 complained of pain or injury. The report stated that Subject 1 had swelling to the left side of the face and was taken to XXXXX Hospital. (Att. #9)

The **Tactical Response Report**, completed by Officer A for Subject 1, indicated that Subject 1 did not follow verbal direction, aggressively faced and charged arresting officers, presented an imminent threat of battery, with a faced body and closed fist. Officer A responded with member presence, verbal commands, an open hand strike, and a closed hand punch. (Att. #12)

The **OEMC Event Query** stated that there was a call of a "Disturbance with males in front arguing about to fight NFI..." The location of the incident was XXXX S. Racine (XXXXX Lounge) and Unit #XXXX responded to the call. (Att. #14)

Subject 1's **medical reports** from XXXXX Hospital indicated that he complained of swelling to the left side of the face and pain to the left shoulder. Subject 1 told the hospital staff that he was hit in the face and then tackled to the ground by the police. The medical records stated that Subject 1 was able to move his left shoulder, but it was painful. Subject 1 informed the hospital staff that it was painful to open his mouth.

The medical records further indicated that X-Rays taken of Subject 1's left shoulder were negative. Subject 1 did not sustain any facial fractures. Subject 1 was diagnosed with a facial contusion and left shoulder strain. (Att. #22)

The **evidence technician** photographs of Subject 1 depict slight swelling to the left side of his face. The photos did not depict any other visible injuries. (Att. #26)

In a To-From Report dated 05 December 2015, the **witness, Officer B**, reported on 28 February 2015 that his partner, Officer A, and himself responded to a call of domestic disturbance outside of a tavern. Officer B stated that he and Officer A attempted to usher Subject 1 away from the area, but they were met with resistance. Subject 1 refused to leave the area and continued to engage in a verbal altercation with his girlfriend, now known to be Civilian 1. Subject 1 was told to leave several times and stated to the officers, "I'll leave, but not because of your authority, you don't know who

the fuck I am, if you touch me I'm going to beat your fucking ass." Officer B stated that he believed that Subject 1 was referring to the officers.

According to Officer B, Subject 1 concentrated his attention on Officer A, at which time he stated, "You think you something take off that gun and badge, I'll show you what a man can do." Subject 1 then said to Officer A, "You need to watch your back one day I'm gonna catch you without that gun and fuck you up." As Subject 1 walked to the corner of XXXX and Racine, he turned toward Officer A, and shoved past Officer B. When Officer B turned around to see what was going on, he observed Officer A and Subject 1 on the ground. Officer B indicated that Officer A had his handcuffs out and he kneeled down to place them on Subject 1. Officer B assisted Officer A in handcuffing Subject 1 and placing him in the squad car. Officer B denied seeing the physical altercation between Officer A and Subject 1. Officer B did not observe any injuries to Subject 1 on the scene, but while he was being processed at the police station, he noticed some swelling. Subject 1 was taken to XXXXX Hospital. (Att. #29)

In a statement to IPRA on 08 March 2016, the **accused, Officer A**, indicated that on 28 February 2015 he and Officer B responded to a domestic incident call in the vicinity of XXXX S. Racine. When they arrived on the scene, they observed Subject 1's girlfriend, now known as Civilian 1, standing in front of a bar. Officer A did not see Subject 1 when he first arrived on the scene. Civilian 1 was showing Officer A that she had broken nails, torn clothes and messed up hair to prove that she was just in a physical altercation.

As Officer A spoke to Civilian, Subject 1 appeared from an unknown location and spoke to Civilian 1 in an aggressive manner. According to Officer A, Subject 1 said to Civilian 1, "Bitch, you called the police on me?" and "As long as we been together, fuck you up." Officer A informed Subject 1 that he needed to leave, but he refused. Subject 1 continued to direct profane language at Subject 1, but then directed his conversation specifically at Officer A. Subject 1 stated words to the effect of: "I'll beat your ass too," in reference to Officer A. Officer A remained inside of his vehicle and believed Subject 1 was intoxicated.

Officer A continued to encourage Subject 1 to leave, as Subject 1 began walking towards XXXX and Racine. At this time, Subject 1 yelled, "Fuck you, I'll kick your motherfuckin' ass." Subject 1 began walking back toward Civilian 1 and Officer A exited his vehicle in fear that Subject 1 might harm Civilian 1. Subject 1 said to Officer A, "Wait 'tit I catch you off duty without that gun. I'm gonna fuck you up." At this point, Officer A decided that he was going to place Subject 1 under arrest.

According to Officer A, Officer B was positioned in front of him walking toward XXXX street. Officer A informed Subject 1 that he was under arrest and Subject 1³ brushed past Officer B and walked toward Officer B

³Att. #35, pg. 14, lines 22 — 24

with his fist clenched, in an aggressive manner. Officer A reported that when Subject 1 initially came toward him, his hands were to the sides of his body, but as he got closer to Officer A, he raised his hands up toward Officer A. Officer A gave Subject 1 one quick open hand stun to the left side of the head, in an attempt to throw off his balance, but Subject 1 was not fazed by the stun. Officer A then struck Subject 1 two to three more times on both side of the head/face area with a closed fist. Officer A grabbed Subject 1 by the back of the clothing, they spun around, and Officer A took Subject 1 down to the ground.

Officer A placed Subject 1 in handcuffs and then he and Officer B picked Subject 1 up off the ground. Officer A explained that Officer B did not use any physical force during Subject 1's arrest. As Officer A and Officer B placed Subject 1 in the squad car, he continued to curse at Officer A and verbally threaten him Subject 1 was placed in the squad car and taken to the district for processing. Officer A spoke with Civilian 1 before they left the scene and she indicated that she did not want Subject 1 arrested, just removed from the area. Officer A did not observe any injuries to Subject 1, but Officer A later learned that Subject 1 requested to go to the hospital for a cut to the left side of his ear or head. Officer A indicated that Subject 1 never asked him for any medical treatment.

Officer A reported that he told Subject 1 that he would be arrested for his actions, but he never threatened Subject 1 with physical harm. Officer A admitted that he punched Subject 1 in the face and that he only did so because Subject 1 walked toward him with clenched fist and verbally threatened him. Officer A also admitted to taking Subject 1 down to the ground to place handcuffs on him. Officer A denied kicking Subject 1, pulling Subject 1's arm upward in a forceful manner and handcuffing him too tightly. (Att. #33 - 35)

CONCLUSION:

IPRA recommends a finding of **Not Sustained** for allegation #1 against Officer A, which alleged that he threatened to physically harm Subject 1. Officers A and B were called to the scene because Subject was involved in two different altercations at the location of XXXX S. Racine. One of the altercations was with his girlfriend, Civilian 1, who appeared to be physically accosted by Subject 1. When the officers arrived on the scene Subject 1 was not present. As Civilian 1 explained to the officers what happened, Subject 1 voluntarily reentered the area and got into a verbal altercation with Civilian 1 in the presence of Officers A and B. Based on the testimonies provided by the involved parties, Subject 1 had several opportunities to leave without being arrested.

Although Subject 1 stated that Officer A threatened him by stating, "You need to go before you get your ass whipped," there was no supporting evidence to corroborate the allegation. Officer A indicated that he told Subject 1 that he would be arrested, but never threatened him with physical harm. Civilian 1 denied being present during the verbal exchange. Officers A and B both reported that Subject 1 threatened Officer A, stating words in the effect of: "If he sees Officer A without his gun or badge he will physically harm him," which prompted his arrest. Based on the lack of evidence to prove or disprove the allegations, IPRA recommends a finding of not sustained.

IPRA recommends a finding of **Not Sustained** for allegation #2 against Officer A, which alleged that he punched Subject 1 on the face several times without justification. Officer A admitted that he applied at least one open hand stun to the left side of the head and several closed hand strikes to both sides of his face. Officer A indicated that Subject 1 appeared to be attempting to physically attack him after he verbally threatened him while he walked toward him quickly with his fist clenched. Subject 1 reported that he was struck by Officer A from behind. Subject 1 further indicated that he was thrown to the ground and struck on the face four to five more times. Officer B said that Subject 1 brushed past him and went toward Officer Carter, but by the time he turned towards them, they were both on the ground. Officer B never saw Officer A punch Subject 1. Civilian 1 never saw any type interaction between Subject 1 and Officer A.

Although Officer A admitted to striking Subject 1 on the face, he did not admit to striking him when he was taken to the ground. Subject 1 appeared to have slight swelling to the left side of the face. There was no other evidence to support whether Officer A's use of force was necessary to the situation. Based on this evidence, this allegation should be not sustained.

IPRA recommends a finding of **Not Sustained** for allegation #3 against Officer A, which alleged that he threw Subject 1 to the ground without justification. Subject 1 indicated that Officer A threw him to the ground after he punched him on the face. Officer A reported that he grabbed Subject 1 by the clothing, spun him

to the ground, and handcuffed him, because the open and closed hand stuns were not effective. Officer B indicated that when he observed Officer A and Subject 1, they were both on the ground. Civilian 1 did not observe the physical interaction between Officer A and Subject 1. Due to the lack of evidence to either prove or disprove the allegations IPRA recommends a finding of **Not Sustained**.

IPRA recommends a finding of **Not Sustained** for allegation #4 against Officer A, which alleged that he kicked Subject 1. Officer A denied the allegation and he indicated that he did not observe Officer B use any physical force during the arrest. Subject 1 could not identify which officer kicked him. Civilian 1 never observed the physical contact between Officer A and Subject 1. There were no witnesses to support or refute the allegation. Based on this evidence, this allegation should be not sustained.

IPRA recommends a finding of **Not Sustained** for allegation #5 against Officer A, which alleged that he pulled Subject 1's left arm upward in a forceful manner. Officer A denied the allegations. Subject 1 was not able to identify the officer that pulled his arm. Subject 1 did not sustain any visible injuries relative to the allegation. The medical records indicated that the X-ray results of Subject 1's left shoulder were negative. There were no witnesses to support that the allegation ever occurred. Based on this evidence, this allegation should be not sustained.

IPRA recommends a finding of **Not Sustained** for allegation #6 against Officer A which alleged that he handcuffed Subject 1 too tightly and refused to loosen the handcuffs upon request. Officer A denied the allegation. Subject 1 reported that he was handcuffed so tightly that the handcuffs broke the skin on his wrist. The evidence technician photographs did not depict any injuries to Subject 1's wrists. Furthermore, Subject 1 never told the hospital staff at XXXXX Hospital that he had any injuries to wrists. Based on the inconsistent evidence, IPRA recommends a finding of not sustained.